

For purposes of this section, "minor" means any person under the age of sixteen years.

**134-11. Exemptions.**

(a) Sections 134-6 to 134-9, except section 134-7(f), shall not apply:

(1) To state and county law enforcement officers; provided that such persons are not convicted of an offense involving abuse of a family and household member under section 709-906;

(2) To members of the armed forces of the State and of the United States and mail carriers while in the performance of their respective duties if those duties require them to be armed;

(3) To regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from the State, provided the members are either at, or going to or from, their places of assembly or target practice;

(4) To persons employed by the State, or subdivisions thereof, or the United States while in the performance of their respective duties or while going to and from their respective places of duty if those duties require them to be armed;

(5) To aliens employed by the State, or subdivisions thereof, or the United States while in the performance of their respective duties or while going to and from their respective places of duty if those duties require them to be armed;

(6) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in that state to carry firearms without registration. The governor of the State or the governor's duly authorized representative may enter into compacts with other states to carry out this paragraph.

(b) Sections 134-2 and 134-3 shall not apply to such firearms or ammunition that are a part of the official equipment of any federal agency.

(c) Sections 134-6, 134-8, and 134-9 shall not apply to the possession, transportation, or use, with blank cartridges, of any firearm or explosive solely as props for motion picture film or television program production when authorized by the chief of police of the appropriate county pursuant to section 134-2.5 and not in violation of federal law.

**134-12.5. Forfeiture of firearms, ammunition, deadly or dangerous weapons, and switchblade knives; when.** All firearms, ammunition, deadly or dangerous weapons, and switchblade knives possessed, used in violation of this chapter or the Hawaii penal code shall be forfeited to the State according to the provisions of chapter 712A and shall be destroyed or, if not destroyed, transferred to the chief of police of the county in which the violation took place for use by and under control of the police department.

**134-15. Restriction of materials for manufacture of pistols or revolvers.**

(a) It shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, sell, or deliver any pistol or revolver the frame or receiver of which is a die casting of zinc alloy which has a

melting temperature of less than 800 degrees Fahrenheit.

(b) This section shall not apply to any pistol or revolver duly registered prior to July 1, 1975 pursuant to section 134-3 or to any antique pistol or revolver.

**134-16. Restriction on possession, sale, gift, or delivery of electric guns.**

(a) It shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, offer for sale, hold for sale, sell, give, lend, or deliver any electric gun.

(b) Any electric gun in violation of subsection (a) shall be confiscated and disposed of by the chief of police.

(c) This section shall not apply to law enforcement officers of county police and sheriff departments of this State, or vendors providing electric guns to those entities; provided that electric guns shall at all times remain in the custody and control of the county police or sheriff departments.

(d) The county police and sheriff departments of this State shall maintain records regarding every electric gun in their custody and control. Such records shall report every instance of usage of the electric guns; in particular, records shall be maintained in a similar manner as for those of discharging of firearms. The county police and sheriff departments shall annually report to the legislature regarding these records twenty days before the beginning of each session.

**134-17. Penalties.**

(a) If any person gives false information or offers false evidence of the person's identity in complying with any of the requirements of this part, that person shall be guilty of a misdemeanor, or, provided, however that if any person intentionally gives false information or offers false evidence concerning their psychiatric or criminal history in complying with any of the requirements of this part, that person shall be guilty of a class C felony.

(b) Any person who violates section 134-3(a) shall be guilty of a petty misdemeanor.

(c) Any person who violates section 134-2, 134-4, 134-10, 134-15, or 134-16(a) shall be guilty of a misdemeanor. Any person who violates section 134-3(b) shall be guilty of a petty misdemeanor and the firearm shall be confiscated as contraband and disposed of, if the firearm is not registered within five days of the person receiving notice of the violation.

**Part II. Firearms, Dealers' Licenses**

**134-31. License to sell and manufacture firearms; fee.** Any person desiring to engage in the business to sell and manufacture firearms for sale in the State either at wholesale or retail, shall annually file an application for a license therefor with the director of finance of each county of the State. The annual fee for the issuance of such license shall be \$10 and shall be payable to said director of finance. A license issued hereunder shall expire on June 30 next

following the date of issuance of the license unless sooner terminated. Application for renewal of license shall be filed on or before June 30 of each year.

**134-32. License to sell and manufacture firearms; conditions.** Every license issued pursuant to this part shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

(1) That the licensee at all times shall comply with all provisions of law relative to the sale of firearms.

(2) That the license during any time of national emergency or crisis, as defined in section 134-34, may be canceled or suspended.

(3) That all firearms in the possession and control of any licensee at any time of national emergency or crisis, as defined in section 134-34, may be seized and held in possession or purchased by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the State may agree upon some other disposition of the same.

(4) That all firearms in the possession and control of the licensee or registered pursuant to section 134-3(c) by the licensee shall be subject to physical inspection by the chief of police of each county during normal business hours at the licensee's place of business.

(5) That the license may be revoked for a violation of any of the conditions of this section.

**134-33. Punishment for violations of section 134-32.** Any person who manufactures or sells any firearms within the State without having a valid license so to do, or who being a holder of a license violates any of the terms or conditions of the same, shall be fined not less than \$100 nor more than \$1,000 or imprisoned not less than three months nor more than one year.

**Part III. Dangerous Weapons**

**134-51. Deadly weapons; prohibitions; penalty.**

(a) Any person, not authorized by law, who carries concealed upon the person's self or within any vehicle used or occupied by the person or who is found armed with any dirk, dagger, black-jack, slug shot, billy, metal knuckles, pistol, or other deadly or dangerous weapon shall be guilty of a misdemeanor and may be immediately arrested without warrant by any sheriff, police officer, or other officer or person. Any weapon, above enumerated, upon conviction of the one carrying or possessing it under this section, shall be summarily destroyed by the chief of police or sheriff.

(b) Whoever knowingly possesses or intentionally uses or threatens to use a deadly or dangerous weapon while engaged in the commission of a crime shall be guilty of a class C felony.

*[Current through 2001 Regular Session, including 2001 Haw. Sess. Laws 252 (HB1211)]*

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**Title 18. Crimes and Punishments**

**Chapter 33. Firearms, Explosives and Other  
Deadly Weapons**

**18-3302. Issuance of Licenses to Carry  
Concealed Weapons.**

(1) The sheriff of a county shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law,

issue a license to the person to carry a weapon concealed on his person within this state for four (4) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless he

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; or

(b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year; or

(c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year; or

(d) Is a fugitive from justice; or

(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; or

(f) Is currently suffering or has been adjudicated as follows, based on substantial evidence

(i) Lacking mental capacity as defined in section 18-210, Idaho Code; or

(ii) Mentally ill as defined in section 66-317, Idaho Code; or

(iii) Gravely disabled as defined in section 66-317, Idaho Code; or

(iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; or

(g) Is or has been discharged from the armed forces under dishonorable conditions; or

(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years has elapsed since disposition or pardon has occurred prior to the date on which the application is submitted; or

(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license; or

(j) Is an alien illegally in the United States; or

(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; or

(l) Is under twenty-one (21) years of age; or

(m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or

(n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows CAUTION Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police for a records check of state and national files. The Idaho state police shall conduct a national fingerprint-based rec-

ords check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of subsection (1) of this section.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the Idaho state police on a form or in a manner prescribed by the state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338, Idaho Code.

(2) The fee for original issuance of a four (4) year license shall be twenty dollars (\$20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be twelve dollars (\$12.00). The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) A licensee may renew a license if the licensee applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of four (4) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(5) Notwithstanding the requirements of this section, the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any informa-

tion not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

(8) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, inside the limits or confines of any city or inside any mining, lumbering, logging or railroad camp a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any pistol or revolver located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrants the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;

(d) Any person outside the limits of or confines of any city, or outside any mining, lumbering, logging or railroad camp, located outside any city, while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers with at least ten (10) years of service with the state or a political subdivision as a peace officer and who have been certified by the peace officer standards and training council;

(g) Any person who has a valid permit from a state or local law enforcement agency or court

authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following, provided the applicant may select which one

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state; or

(b) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course; or

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police; or

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency; or

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service; or

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(15) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons

(a) Fraud or intentional misrepresentation in the obtaining of a license; or

(b) Misuse of a license, including lending or giving a license to another person, or duplicating a license, or using a license with the intent to unlawfully cause harm to a person or property; or

(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff; or

(d) The violation of any of the terms of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon or a license renewal on or after July 1, 1995, is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement.

Temporary emergency licenses shall be easily distinguishable from regular licenses.

(17) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this section.

**18-3302A. Sale of Weapons to Minors.** It shall be unlawful to directly or indirectly sell to any minor under the age of eighteen (18) years any weapon without the written consent of the parent or guardian of the minor. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not in excess of one thousand dollars (\$1,000), by imprisonment in the county jail for a term not in excess of six (6) months, or by both such fine and imprisonment. As used in this section, "**weapon**" shall mean any dirk, dirk knife, bowie knife, dagger, pistol, revolver or gun.

**18-3302D. Possessing Weapons or Firearms on School Property.**

(1)(a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school sponsored activity, program or event regardless of location.

(2) **Definitions.** As used in this section:

(a) "**Deadly or dangerous weapon**" means any weapon as defined in 18 U.S.C. section 930;

(b) "**Firearm**" means any firearm as defined in 18 U.S.C. section 921;

(c) "**Minor**" means a person under the age of eighteen (18) years;

(d) "**Possess**" means to bring an object, or to cause it to be brought, onto the property of a public or private elementary or secondary school, or onto a vehicle being used for school provided transportation, or to exercise dominion and control over an object located anywhere on such property or vehicle. For purposes of subsection (1)(b) of this section, "possess" shall also mean to bring an object onto the site of a school sponsored activity, program or event, regardless of location, or to exercise dominion and control over an object located anywhere on such a site;

(e) "**School**" means a private or public elementary or secondary school.

(3) **Right to search students or minors.** For purposes of enforcing the provisions of this section, employees of a school district shall have the right to search all students or minors, including their belongings and lockers, that are reasonably believed to be in violation of the provisions of this section, or applicable school rule or district policy, regarding the possessing of a firearm or other deadly or dangerous weapon.

(4) The provisions of this section shall not apply to the following persons:

(a) A peace officer;

(b) A person who lawfully possesses a firearm or deadly or dangerous weapon as an appropriate part of a program, an event, activity or other circumstance approved by the board of trustees or governing board;

(c) A person or persons complying with the provisions of section 19-202A, Idaho Code;

(d) Any adult over eighteen (18) years of age and not enrolled in a public or private elementary or secondary school who has lawful possession of a firearm or other deadly or dangerous weapon, secured and locked in his vehicle in an unobtrusive, nonthreatening manner;

(e) A person who lawfully possesses a firearm or other deadly or dangerous weapon in a private vehicle while delivering minor children, students or school employees to and from school or a school activity;

(f) Notwithstanding the provisions of section 18-3302C, Idaho Code, a person or an employee of the school or school district who is authorized to carry a firearm with the permission of the board of trustees of the school district or the governing board.

(5) **Penalties.** Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars (\$1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

**18-3302E. Possession of a Weapon by a minor.**

(1) It shall be unlawful for any person under the age of eighteen (18) years to possess or have in possession any weapon, as defined in section 18-3302A, Idaho Code, unless he:

(a) Has the written permission of his parent or guardian to possess the weapon; or

(b) Is accompanied by his parent or guardian while he has the weapon in his possession.

(2) Any minor under the age of twelve (12) years in possession of a weapon shall be accompanied by an adult.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor.

**18-3302F. Prohibition of Possession of Certain Weapons by a Minor.**

(1) It shall be unlawful for any person under the age of eighteen (18) years to possess or have in possession any handgun.

(2) Except as provided by federal law, a minor under the age of eighteen (18) years may not possess the following:

(a) A sawed-off rifle or sawed-off shotgun; or

(b) A full automatic weapon.

(3) Any person who violates the provisions of subsection (2) (a) of this section is guilty of a misdemeanor.

(4) Any person who violates the provisions of subsection (2) (b) of this section is guilty of a felony.

(5) For purposes of this section:

(a) "**Full automatic weapon**" means any firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one (1) bullet, or other missile without reloading, by a single function of the trigger.

(b) **"Handgun"** means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve (12) inches. Excluded from this definition are handguns firing a metallic projectile, such as a BB or pellet, through the force of air pressure, CO pressure, or spring action or any spot marker gun.

(6) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of the provisions of this section is guilty of a misdemeanor.

**18-3302G. Exceptions.** The provisions of section 18-3302E, Idaho Code, regarding the possession of a weapon by a minor or section 18-3302F, Idaho Code, regarding possession of handguns by minors shall not apply to any of the following:

(1) Patrons firing at lawfully operated target concessions at amusement parks and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;

(2) Any person in attendance at a hunter's safety course or a firearm's safety course;

(3) Any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;

(4) Any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;

(5) Any minor under eighteen (18) years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of the law;

(6) Any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; and

(7) Any person traveling to or from any activity described in subsection (2), (3), (4), (5) or (6) of this section with an unloaded firearm in his possession.

**18-3304. Aiming Firearms At Others.** Any person who shall intentionally, without malice, point or aim any firearm at or toward any other person shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$50.00 and not less than \$5.00.

**18-3308. Selling Explosives, Ammunition or Firearms to Minors.** No person, firm, association or corporation shall sell or give to any minor under the age of sixteen (16) years any powder, commonly called gunpowder, of any description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two (22) caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

**18-3310. Shipping Loaded Firearms.** Every person who ships, or causes to be shipped, or delivers or causes to be delivered, to any railroad, express or stage company, or to any other common carrier, for shipment as baggage or otherwise, any loaded pistol, revolver, rifle, shotgun or other firearm, is guilty of a misdemeanor.

**18-3311. Keeping Gunpowder or Other Explosives in Towns.** Every person who makes or

keeps gunpowder, nitroglycerin, or other highly explosive substance, within any city or town, or who carries the same through the streets thereof, in any quantity or manner prohibited by law, or by any ordinance of such city or town, is guilty of a misdemeanor.

**18-3314. Resident's Purchase of Firearm in Contiguous State.** Residents of the state of Idaho may purchase rifles and shotguns in a state contiguous to Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such a purchase in Idaho and in the contiguous state in which the purchase is made.

**18-3315. Resident of Contiguous State - Purchase of Firearm in Idaho.** Residents of a state contiguous to the state of Idaho may purchase rifles and shotguns in Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such purchase in Idaho and in the state in which such persons reside.

**18-3316. Unlawful Possession of a Firearm.**

(1) A person who previously has been convicted of a felony who purchases, owns, possesses, has under his custody or control any firearm shall be guilty of a felony and shall be imprisoned in the state prison for a period of time not to exceed five (5) years and by a fine not to exceed five thousand dollars (\$5,000).

(2) For the purpose of subsection (1) of this section, "convicted of a felony" shall include a person who has entered a plea of guilty, nolo contendere or has been found guilty of any of the crimes enumerated in section 18-310, Idaho Code, or to a comparable felony crime in another state, territory, commonwealth, or other jurisdiction of the United States.

(3) For the purpose of subsection (1) of this section, "firearm" shall include any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable.

(4) Subsection (1) of this section shall not apply to a person whose conviction has been nullified by expungement, pardon, setting aside the conviction or other comparable procedure by the jurisdiction where the felony conviction occurred; or whose civil right to bear arms either specifically or in combination with other civil rights has been restored by any other provision of Idaho law.

**18-3318. Definitions.** Definitions as used in sections 18-3319, 18-3320 and 18-3321, Idaho Code.

(1) **"Bomb"** means any chemical or mixture of chemicals contained in such a manner that it can be made to explode with fire or force, and combined with the method or mechanism intended to cause its explosion. The term includes components of a bomb only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed bomb can be readily assembled. "Bomb" does not include: rifle, pistol or shotgun ammunition and their components, fireworks; boating, railroad and other safety flares or propellants used in model rockets or similar hobby activities.

(2) **"Destructive device"** means

(a) Any explosive, incendiary or poisonous gas

(i) Bomb;

(ii) Grenade;

(iii) Rocket having a propellant charge of more than four (4) ounces;

(iv) Missile having an explosive or incendiary charge of more than one-fourth (1/4) ounce;

(v) Mine;

(vi) Similar device

(b) Any type of weapon, by whatever name known, which will, or which may be imminently converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than .700 inches in diameter, except rifled and unrifled shotguns or shotgun shells.

(c) Components of a destructive device only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed destructive device can be readily assembled.

(d) The term "destructive device" shall not include

(i) Any device which is neither designed nor redesigned for use as a weapon;

(ii) Any device which, although originally designed for use as a weapon, has been redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(iii) Otherwise lawfully owned surplus military ordnance;

(iv) Antiques or reproductions thereof and rifles held for sporting, recreational, investment or display purposes; or

(v) Rifle, pistol or shotgun ammunition and their components.

(3) **"Shrapnel"** means any metal, ceramic, glass, hard plastic or other material of sufficient hardness to puncture human skin when propelled by force of the bomb or destructive device to which it is attached or in which it is contained.

**18-3319. Unlawful Possession of Bombs or Destructive Devices.**

(1) Any person who knowingly, intentionally, or recklessly possesses or controls a bomb or destructive device for a purpose unlawful pursuant to title 18, Idaho Code, is guilty of a felony, punishable by up to a five thousand dollar (\$5,000) fine and five (5) years in prison.

(2) Any person who knowingly possesses an assembled bomb or assembled destructive device and who:

(a) Has been convicted of a felony; or

(b) Has been found guilty of any crime where such conviction results in the person being prohibited from possessing or owning firearms; or

(c) Is in possession or control of any substance or paraphernalia in violation of section 37-2732B, 37-2734A or 37-2734B, Idaho Code, or the felony provisions of section 37-2732, Idaho Code;

is guilty of a felony, punishable by up to a five thousand dollar (\$5,000) fine and five (5) years in prison.

(3) Any person who possesses a bomb or destructive device which by its design will propel shrapnel is guilty of a felony, punishable by up to a five thousand dollar (\$5,000) fine and five (5) years in prison.

**18-3320. Unlawful Use of Destructive Device or Bomb.** Any person who knowingly, intentionally, or recklessly

(1) Conspires to use, uses or causes to be used a destructive device or bomb in the commission of or an attempt to commit a felony; or

(2) With the intent to injure the person or property of another, transports a bomb or destructive device; or

(3) Injures another or conspires or attempts to injure another in his person or property through the use of a destructive device or bomb is guilty of a felony, punishable by up to a twenty-five thousand dollar (\$25,000) fine and life in prison.

**18-3321. Persons Exempt.** Unless the intent to injure the person or property of another has been established, the provisions in sections 18-3319, Idaho Code, shall not apply to

(1) Any public safety officer or member of the armed forces of the United States or national guard while acting in his official capacity

(2) Any person possessing a valid permit issued under the provisions of Idaho uniform fire code, sections 41-253 and 41-254, Idaho Code, or any employee of such permittee acting within the scope of his employment;

(3) Any person possessing a valid license as an importer, wholesaler, or display operator under the provisions of the Idaho fireworks act, sections 39-2602, 39-2606, 39-2607, 39-2608, 39-2609, 39-2610, 39-2611 and 39-2612, Idaho Code;

(4) A device which falls within the definition of a bomb or destructive device when used on property owned or otherwise in the control of the person using the device;

(5) Those licensed or permitted by the federal government to use or possess a bomb or destructive device.

(6) Those persons who possess a destructive device properly registered and taxed under the provision of the national firearms act, as amended, as to possession of destructive devices properly registered to such persons.

## Title 19. Criminal Procedure

### Chapter 54. Records Checks for Transfers of Handguns

**19-5401. Legislative Intent.** It is the intent of the legislature to establish a state-designed procedure that will provide an alternative to the general requirements of the Brady handgun violence prevention act (Public Law 103-159, 103d Congress) for local and state records checks before transfer of a handgun. The legislature finds the procedure imposed in the federal act to be unworkable and burdensome. This act will better serve the interests of the citizens of this state while fulfilling the basic purposes of the federal act.

**19-5402. Definitions.** As used in this chapter:

(1) **"Department"** means the Idaho state police.

(2) **"Firearms dealer"** means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer of firearms issued by the United States department of treasury.

(3) **"Handgun"** means:

(a) A firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

(b) Any combination of parts from which a firearm described in paragraph (a) of this section can be assembled.

(4) **"Statement of intent"** means ATF form 5300.35 (statement of intent to obtain a handgun(s)) or an equivalent form prescribed by regulations administered by the bureau of alcohol, tobacco and firearms of the United States department of treasury for compliance with the Brady handgun violence prevention act.

(5) **"Transfer"** and the various derivatives thereof shall include the sale, delivery or other transfer of a handgun.

(6) **"Working day"** means each day except Saturday, Sunday or a legal state holiday.

**19-5403. Transfer of a Handgun - Records Check.** No firearms dealer shall transfer any handgun unless the dealer has:

(1)(a) Obtained a completed statement of intent from the potential buyer or transferee and inspected proof of identity presented by the buyer to verify information provided on the form;

(b) Requested, by means described in this chapter, that the department conduct a records check; and

(c) Obtained a unique approval number from the department and has recorded the date and approval number on the statement of intent; or

(2) Been presented with a license to carry concealed weapons which was issued to the potential buyer pursuant to section 18-3302, Idaho Code, and issued after March 22, 1995; or

(3)(a) Obtained a completed statement of intent from the potential buyer or transferee and inspected proof of identity presented by the buyer to verify information provided on the form;

(b) Furnished a copy of the statement of intent to the county sheriff of the county of residence of the potential buyer; and

(c) Waited five (5) working days and has not received notice from the county sheriff of the county that the potential buyer or transferee is prohibited from receiving or purchasing a handgun under state or federal law. If notice is given by the county sheriff of the county on or before five (5) working days have elapsed that the potential buyer or transferee is not prohibited, the sale may proceed at that time.

**19-5404. Dealer Identification Number - Fee.**

(1) A firearms dealer must obtain annually a dealer identification number from the department to be eligible to request the records check required in section 19-5403(2), Idaho Code. The dealer identification number is confidential and shall be used for requesting a records check only by the firearms dealer to which it is assigned. If the confidentiality of the number is compromised or the dealer's address or place of business changes, the firearms dealer shall notify the department.

(2) The department shall establish by rule an annual dealer identification number fee not to exceed one hundred dollars (\$100) to be paid by a firearms dealer who intends to transfer any handgun subject to the provisions of this chapter. The fee shall be for the purpose of establishing and maintaining the operation of the records check system established in this chapter and shall be remitted to the instacheck fund which is hereby created. The interest earned on the investment of moneys in the fund shall be returned to the fund.

**19-5405. Proof of Identity.** To establish proof of identity as required in section 19-5403(1), Idaho Code, a potential buyer or transferee shall present a photo identification issued by a governmental agency. The photo identification, which may be, but is not limited to, an Idaho driver's license, shall include the transferee's name, date of birth and residence address.

**19-5406. Statement of Intent Transmittal.** The firearms dealer shall maintain the original copy of the statement of intent as required by federal regulations administered by the bureau of alcohol, tobacco, and firearms. The firearms dealer shall mail a duplicate copy of the completed statement of intent to the department within five (5) working days after:

(i) requesting the records check for a prospective buyer whose records check results in the issuance of a nonapproval number as described in section 19-5409(2), Idaho Code, and

(ii) transferring a handgun without an approval or disapproval number as permitted in sections 19-5409(3) and 19-5410, Idaho Code.

**19-5407. Toll-Free Telephone Number.** The director of the department shall establish a toll-free telephone number for the purpose of responding to requests for criminal history records checks from firearms dealers required under the provisions of this chapter. The telephone service will be in operation seven (7) days a week, with the exception of Easter, Thanksgiving and Christmas days, with hours of service determined by rule. The director shall employ, train and equip such personnel as are necessary to administer the provisions of this chapter.

**19-5408. Records Check.** Upon receipt of a request for a records check, the department shall immediately review its records, those of the federal bureau of investigation, national crime information center (NCIC), interstate identification index; records made available by the Idaho department of health and welfare; and any other applicable and accessible records to determine if the buyer or transferee is prohibited from receiving or purchasing a handgun under state or federal law.

**19-5409. Response.** The department shall provide its response to the requesting dealer immediately or by return call. The response may be:

(1) A unique approval number indicating that the potential buyer or transferee is not prohibited from receiving a handgun; or

(2) A unique disapproval number indicating that the potential buyer or transferee is prohibited from receiving a handgun; or

(3) If the records are incomplete so as to preclude a determination that the purchaser or transferee is disqualified from obtaining a handgun, the department may have up to three (3) working days to obtain this information. By the close of business at the end of the third working day following the request, without regard to whether the dealer has received a reply from the department, the dealer may complete the transaction and shall not be deemed in violation of this chapter with respect to such transaction.

**19-5410. Delay.** In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the department, the department shall immediately notify the dealer of the reason for, and estimated length of, such delay. After such notification, the department shall, in no event later than the end of the next working day after such notification, either inform the requesting dealer that its records demonstrate that the buyer is prohibited from purchasing a handgun pursuant to state and federal law or provide the dealer with a unique approval number. Unless notified by the end of the next working day that the transfer is prohibited, and without regard to whether the dealer has received a unique approval number, the dealer may complete the transfer and shall not be deemed in violation of this law with respect to such transaction.

**19-5411. Review of Disapproval.**

(1) The department shall promulgate rules providing for a review of disapproved handgun transfers. Under the rules, any person who is denied the right to receive or purchase a handgun because the firearms dealer received a disapproval number as the result of the department's records check may request a review of

the process as performed by the department under these rules.

(2) The department shall respond to the request for a review within ten (10) working days of its receipt. If the person disagrees with the results of the review, the person may petition the district court in the county of his residence for a writ of mandamus directing the department to issue an approval. If the record as reviewed indicates that the petitioner is not prohibited from receipt or possession of a firearm under Idaho or federal law, the department shall destroy any records it maintains which contain any information derived from the records check described in section 19-5408, Idaho Code.

**19-5413. Wrongful Request - Wrongful Dissemination.** Any firearms dealer or any other person who willfully and intentionally requests a records check from the department for any purpose other than compliance with this act, or willfully and intentionally disseminates any records information to any person other than the subject of such information shall be guilty of a misdemeanor.

**19-5414. False Statement - False Identification.** Any person who, in connection with the transfer or attempted transfer of a firearm pursuant to this chapter, willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive a firearms dealer shall be guilty of a misdemeanor.

**19-5415. Wrongful Transfer.** Any firearms dealer who willfully and intentionally transfers a

handgun in violation of the provisions of this section or uses another firearms dealer's identification number to request a records check shall be guilty of a misdemeanor.

**19-5416. Wrongful Purchase or Receipt.** Any buyer or transferee who obtains a handgun for the purpose of transferring it to a person who is prohibited from possession of a firearm by Idaho or federal law shall be guilty of a felony.

**19-5418. Complete Defense.** Compliance by a firearms dealer with the provisions of this act shall be a complete defense to any claim or cause of action under the laws of this state for liability or damages arising from the subsequent transfer to any person who is not qualified under state or federal law from receipt of a handgun.

**19-5419. Exemptions.** This act does not apply to any of the following:

(1) Transfers of any handgun (including any handgun with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured on or before 1898;

(2) Transfers of any replica of a handgun described in subsection (1) of this section, if the replica is not designed or redesigned to use rim fire or conventional centerfire fixed ammunition, or uses rim fire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

(3) Transfers of any handgun between persons who both hold valid federal firearm licenses;

(4) Transfers of any handgun to employees of sheriff's offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the transfers are made on behalf of an employing agency for official law enforcement purposes.

## Title 31. Counties and County Law

### Chapter 8. Powers and Duties of Board of Commissioners

**31-872. Regulation of Firearms - Control by State.** No board of county commissioners of any county may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by the laws of the state of Idaho.

## Title 50. Municipal Corporations

### Chapter 3. Powers

**50-343. Regulation of Firearms - Control by State.** No city may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by the laws of the state of Idaho.

[Current through 2001 Legislative Session, including 2001 Idaho Sess. Laws 256 (HB 321)]

# ILLINOIS

## ILL. COMP. STAT.

### Chapter 430. Public Safety

#### Act 65. Firearms Owners Identification Card Act

**65/0.01. Short title.** This Act may be cited as the Firearm Owners Identification Card Act.

**65/1. Legislative declaration.** It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety and welfare of the public, it is necessary and in the public interest to provide a system of identifying persons who are not qualified to acquire or possess firearms and firearm ammunition within the State of Illinois by the establishment of a system of Firearm Owner's Identification Cards, thereby establishing a practical and workable system by which law enforcement authorities will be afforded an opportunity to identify those persons who are prohibited by Section 24-3.1 of the "Criminal Code of 1961", as amended, from acquiring or possessing firearms and firearm ammunition.

**65/1.1. Definitions.** For purposes of this Act: "Counterfeit" means to copy or imitate, without legal authority, with intent to deceive.

"Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

(1) any pneumatic gun, spring gun, paint ball gun or B-B gun which either expels a single globular projectile not exceeding .18 inch in diameter and which has a maximum muzzle velocity of less than 700 feet per second or breakable paint balls containing washable marking colors;

(2) any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(3) any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition;

(4) an antique firearm (other than a machine-gun) which, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

"Firearm Ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm; excluding, however:

(1) any ammunition exclusively designed for use with a device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(2) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

#### 65/2. Firearm Owner's Identification Card required; exceptions.

(a)(1) No person may acquire or possess any firearm within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Department of State Police under the provisions of this Act.

(2) No person may acquire or possess firearm ammunition within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name

by the Department of State Police under the provisions of this Act.

(b) The provisions of this Section regarding the possession of firearms and firearm ammunition do not apply to:

(1) United States Marshals, while engaged in the operation of their official duties;

(2) Members of the Armed Forces of the United States or the National Guard, while engaged in the operation of their official duties;

(3) Federal officials required to carry firearms, while engaged in the operation of their official duties;

(4) Members of bona fide veterans organizations which receive firearms directly from the armed forces of the United States, while using the firearms for ceremonial purposes with blank ammunition;

(5) Nonresident hunters during hunting season, with valid nonresident hunting licenses and while in an area where hunting is permitted; however, at all other times and in all other places these persons must have their firearms unloaded and enclosed in a case;

(6) Those hunters exempt from obtaining a hunting license who are required to submit their Firearm Owner's Identification Card when hunting on Department of Natural Resources owned or managed sites;

(7) Nonresidents while on a firing or shooting range recognized by the Department of State Police; however, these persons must at all other times and in all other places have their firearms unloaded and enclosed in a case;

(8) Nonresidents while at a firearm showing or display recognized by the Department of State Police; however, at all other times and in all